

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION

IN THE MATTER OF DETERMINING) Order Number S-04-157-04-TO01
)
Whether there has been a violation of the) SUMMARY ORDER TO CEASE AND
Securities Act of Washington by:) DESIST AND NOTICE OF INTENT TO
) ORDER AFFIRMATIVE RELIEF
)
Arthur A. DeLuca,)
a.k.a. Duke DeLuca,)
)
Respondent.)
)

THE STATE OF WASHINGTON TO: Arthur A. DeLuca
a.k.a. Duke DeLuca

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the State of Washington has reason to believe that the Respondent, Arthur A. DeLuca, has violated the Securities Act of Washington and that his violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 to cease and desist from such violations. The Securities Administrator finds that delay in ordering the Respondent to cease and desist from such violations would be hazardous to investors and to the public and that a Summary Order to Cease and Desist should be entered immediately. The Securities Administrator finds as follows:

SUMMARY ORDER TO CEASE AND DESIST AND
NOTICE OF INTENT TO ORDER AFFIRMATIVE
RELIEF

1 **TENTATIVE FINDINGS OF FACT**

2 **RESPONDENTS**

3 1. Arthur A. DeLuca ("DeLuca"), a.k.a. Duke DeLuca, is a resident of Niagara Falls, New
4 York.

5 **NATURE OF THE OFFERING**

6 2. In approximately February 2002, DeLuca telephoned a Washington resident and told
7 her that she should invest her retirement funds with him, and that if she did, she would receive
8 a better rate of return than her current investment portfolio. DeLuca signed several promissory
9 notes and had them mailed to the Washington resident. Under the terms of these promissory
10 notes, DeLuca promised to pay the resident a total of \$200,000 in cash within a month. In the
11 notes, DeLuca designated the place of repayment as Mesa, Arizona or Kirkland, Washington.
12 At the instruction of DeLuca, the resident mailed three checks totaling \$67,500 to a resident of
13 Arizona, who in turn, passed on the funds to DeLuca. The resident wrote "Investment" on each
14 of the three checks that she mailed.
15

16 3. In the offer and sale of the promissory notes, DeLuca failed to disclose material
17 information, concerning, among other things, his experience and track record in investments,
18 the intended use of investor proceeds, and the general and specific risk factors associated with
19 the investment.
20

21 4. DeLuca did not pay the investor in accordance with the terms of the promissory notes.
22 DeLuca lulled the investor by periodically mailing money orders to her in Washington. These
23 postal money orders represent only a fraction of her total investment. The words "Restitution
24 Payment" are indicated on several of the money orders.
25

1 **REGISTRATION STATUS**

2 5. The offering of promissory notes by DeLuca is not currently and has not previously
3 been registered in the state of Washington, and no notice of claim of exemption is on file with
4 the Securities Administrator of the State of Washington.

5 6. DeLuca is not currently and has not previously been registered as a security salesperson
6 in the state of Washington.
7

8 **THREAT TO THE INVESTING PUBLIC**

9 7. The Securities Administrator finds that the continued offering of promissory notes by
10 Deluca in the manner described in the Tentative Findings of Fact, presents a threat to the
11 investing public.

12 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:

13 **CONCLUSIONS OF LAW**

14 1. The offer or sale of promissory notes by Deluca described above constitutes the offer or
15 sale of a security, as defined in RCW 21.20.005(10) and (12).

16 2. DeLuca has violated RCW 21.20.010 because, in connection with the offer or sale of
17 said securities, he made untrue statements of material fact or omitted to state material facts
18 necessary in order to make the statements made, in the light of the circumstances under which
19 they were made, not misleading.
20

21 3. DeLuca has violated RCW 21.20.140, the securities registration provision of the Securities
22 Act, because he offered and/or sold securities for which there was no registration on file with the
23 Securities Administrator, and it appears that they do not otherwise qualify for an exemption from
24 registration.
25

1 4. DeLuca has violated RCW 21.20.040, the salesperson registration provision of the
2 Securities Act, because he offered and/or sold securities while not registered as a securities
3 salesperson or broker-dealer in the state of Washington.

4 5. The Securities Administrator finds that an emergency exists, that the continued
5 violations of RCW 21.20.010, RCW 21.20.140, and RCW 21.20.040, constitutes a threat to the
6 investing public, and that a summary order to cease and desist from those violations is in the
7 public interest and necessary for the protection of the investing public.
8

9 **SUMMARY ORDER**

10 Based on the foregoing, NOW, THEREFORE, IT IS HEREBY SUMMARILY
11 ORDERED that DeLuca, his agents and employees each cease and desist from violating RCW
12 21.20.010, the anti-fraud section of the Securities Act.

13 It is further SUMMARILY ORDERED that DeLuca, his agents and employees each
14 cease and desist from offering or selling securities in any manner in violation of RCW
15 21.20.140, the section of the Securities Act of Washington requiring registration.

16 It is further SUMMARILY ORDERED that DeLuca cease and desist from violating
17 RCW 21.20.040, the section of the Securities Act that requires registration of securities
18 salespersons and broker-dealers.
19

20 **NOTICE OF INTENT TO ORDER AFFIRMATIVE RELIEF**

21 Pursuant to RCW 21.20.390, and based upon the above Tentative Findings of Fact and
22 Conclusions of Law, the Securities Administrator finds that affirmative action is warranted to
23 correct the conditions resulting from the Respondent's violations. Therefore, the Securities
24 Administrator intends to order that DeLuca shall be liable for and shall provide appropriate
25 affirmative action, including, without limitation, a requirement to pay the costs, fees, and other

1 expenses incurred in the conduct of this investigation.


2 **AUTHORITY AND PROCEDURE**

3 This Order is entered pursuant to the provisions of RCW 21.20.390 and is subject to the
4 provisions of RCW 34.05. The Respondent may make a written request for a hearing as set
5 forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
6 HEARING accompanying this Order. A request for a hearing should be in writing and should
7 be sent to Michael E. Stevenson, Securities Administrator, Department of Financial
8 Institutions, P.O. Box 9033, Olympia, WA 98507-9033.
9

10 If a Respondent does not make a timely hearing request, the Securities Administrator
11 intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and make
12 the Summary Order to Cease and Desist permanent as to that Respondent and impose the fine and
13 affirmative relief as set forth.

14 **WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

15 Dated this 28th day of October, 2004
16

17 
18 Michael E. Stevenson
19 Securities Administrator

20 Approved by:

21 

22 Martin Cordell
23 Chief of Enforcement
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Presented by:



Robert Kondrat
Financial Legal Examiner